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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 1253 OF 2006**

The State of Maharashtra & ors. ... Petitioners

V/s

Shri Arvind Krishna Mali ... Respondent

Mr. S.K.Chinchalikar, A.G.P. for the petitioners.

Mr. M.S.Topkar for the respondent.

**CORAM: SMT. NISHITA MHATRE, J.**

**DATED: 22ND OCTOBER, 2007.**

**P.C.**:

1. This petition challenges the order of the Industrial Court in Complaint (ULP) No. 51 of 2003 dated 2.2.2005. The petitioners have also challenged the order passed by the Industrial Court on Exh.U-2 i.e. the interim application, on 18.6.2005.

2. The main grievance of the petitioners is that the Industrial Court has arrived at an incorrect conclusion that the Sports & Youth Services Department is an "industry" within the meaning of Section 2(j) of the Industrial Disputes Act, 1947. It is submitted that the works carried out by this department do not fall within

the definition of "industry" and, therefore, the complaint itself is not maintainable.

3. In my view, the petition can be disposed of reserving the rights of the petitioners to challenge the order dated 2.2.2005 which declares that the Sports & Youth Services Department is an "industry" in the event the complaint is allowed. Keeping the petition pending on this limited issue would delay the process of law, which in my view would not be proper. In my view, the interim order passed by the Industrial Court need not be disturbed as a prima facie case has been made out by the respondent workman.

4. It would, therefore, be appropriate to dispose of this petition by directing the Industrial Court to decide the complaint in accordance with law, uninfluenced by the findings in its order dated 18.6.2005.

5. In the event the complaint is decided in favour of the respondent workman and the petitioners choose to file a writ petition against the order, the petitioners will have a right to challenge the order dated 2.2.2005, since I am not dealing with it on merits.

6. Petition disposed of accordingly.

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